



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2011 Rhif 1593 (Cy.184)

2011 No. 1593 (W.184)

Y GYMRAEG, CYMRU

WELSH LANGUAGE, WALES

Rheoliadau Comisiynydd y
Gymraeg (Penodi) 2011

The Welsh Language
Commissioner (Appointment)
Regulations 2011

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

(This note is not part of the Regulations)

Mae Mesur y Gymraeg (Cymru) 2011 ("y Mesur") yn creu swydd Comisiynydd y Gymraeg ("y Comisiynydd"). Mae adran 2 o'r Mesur yn darparu bod y Comisiynydd yn cael ei benodi gan Brif Weinidog Cymru.

The Welsh Language (Wales) Measure 2011 ("the Measure") creates the office of Welsh Language Commissioner ("the Commissioner"). Section 2 of the Measure provides that the Commissioner is appointed by the First Minister.

Wrth benodi'r Comisiynydd, mae Prif Weinidog Cymru o dan ddyletswydd i gydymffurfio â rheoliadau sy'n gwneud darpariaeth ynghylch y penodiad (y cyfeirir atynt yn y Mesur fel "rheoliadau penodi").

In appointing the Commissioner, the First Minister is under a duty to comply with regulations that make provision about the appointment (referred to in the Measure as "appointment regulations").

Mae paragraff 7(1) o Atodlen 1 i'r Mesur yn gosod dyletswydd ar Weinidogion Cymru i wneud rheoliadau penodi.

Paragraph 7(1) of Schedule 1 to the Measure imposes a duty upon the Welsh Ministers to make appointment regulations.

Mae paragraff 7(2) o Atodlen 1 i'r Mesur yn darparu bod yn rhaid i reoliadau penodi wneud darpariaeth ynghylch sefydlu panel o bersonau sydd i gyf-weld ag ymgeiswyr ar gyfer penodi Comisiynydd a gwneud argymhellion i Brif Weinidog Cymru mewn perthynas â'r penodiad hwnnw (y cyfeirir ato yn y Mesur fel "panel dethol").

Paragraph 7(2) of Schedule 1 to the Measure provides that appointment regulations must make provision about the establishment of a panel of persons who are to interview candidates for appointment as Commissioner and make recommendations to the First Minister in relation to that appointment (referred to in the Measure as a "selection panel").

Mae paragraffau 7(3) i (6) o Atodlen 1 i'r Mesur yn darparu y caiff rheoliadau penodi wneud darpariaeth ynghylch yr egwyddorion sydd i'w dilyn wrth benodi'r Comisiynydd a gwybodaeth y Comisiynydd o'r Gymraeg a'i hyfedredd ynddi, ymysg materion eraill.

Paragraphs 7(3) to (6) of Schedule 1 to the Measure provide that appointment regulations may make provision about the principles to be followed in appointing the Commissioner and the knowledge of, and proficiency in, the Welsh language of the Commissioner, amongst other matters.

Mae Gweinidogion Cymru yn gwneud y rheoliadau hyn i gydymffurfio â'u dyletswydd i wneud rheoliadau penodi. Mae'r rheoliadau hyn yn gwneud darpariaeth ynghylch cynnull panel ethol a'i aelodaeth. Mae'r rheoliadau hyn hefyd yn gwneud darpariaeth ynghylch

The Welsh Ministers make these regulations to comply with their duty to make appointment regulations. These regulations make provision about convening a selection panel and its membership. These regulations also make provision about the principles to

yr egwyddorion sydd i'w dilyn gan Brif Weinidog Cymru wrth benodi'r Comisiynydd a'r wybodaeth a'r hyfedredd yn y Gymraeg sy'n rhaid i berson a benodir yn Gomisiynydd ei chael neu ei gael.

Mae rheoliad 2 yn gosod dyletswydd ar Weinidogion Cymru i gynnull panel dethol pan fydd Prif Weinidog Cymru yn gofyn iddynt wneud hynny. Bydd panel dethol a sefydlir ar gyfer penodi'r Comisiynydd yn cynnwys aelod o staff Llywodraeth Cynulliad Cymru (a elwir "Llywodraeth Cymru"); asesydd annibynnol; person sydd â phrofiad o hybu defnydd o'r Gymraeg a/neu iaith arall; ac Aelod Cynulliad a enwebwyd gan un o bwyllgorau Cynulliad Cenedlaethol Cymru. Mewn achos pan fo pwyllgor yn gwrthod neu'n methu enwebu, mae rheoliad 2 yn caniatáu i Weinidogion Cymru gynnull panel dethol nad yw'n cynnwys Aelod Cynulliad.

Mae rheoliad 3 yn atal person sy'n dal neu wedi dal swydd Comisiynydd neu Ddirprwy Gomisiynydd y Gymraeg rhag eistedd ar banel dethol.

Mae rheoliad 4 yn gosod dyletswydd ar Brif Weinidog Cymru, wrth benodi'r Comisiynydd, i ddilyn egwyddorion cyfrifoldeb gweinidogion; teilyngdod; craffu annibynnol; cyfle cyfartal; uniondeb; didwylledd a thryloywder; a chymesuredd gan gymryd i ystyriaeth y disgrifiad o'r egwyddorion hynny a nodir yng Nghod Ymarfer y Comisiynydd Penodiadau Cyhoeddus ar gyfer Penodiadau gan Weinidogion i Gyrff Cyhoeddus dyddiedig Awst 2009. Gellir cael copi o'r Cod Ymarfer dyddiedig Awst 2009 ar wefan y Comisiynydd Penodiadau Cyhoeddus: www.publicappointmentscommissioner.org/

Mae rheoliad 5 yn gwneud darpariaeth ynghylch gwybodaeth o'r Gymraeg a hyfedredd ynddi y mae'n rhaid i berson a benodir yn Gomisiynydd ei chael neu ei gael.

Mae Asesiad Effaith Rheoleiddiol ar gyfer y rheoliadau hyn wedi ei baratoi a gellir cael copi ohono gan Uned yr Iaith Gymraeg, Yr Adran Addysg a Sgiliau, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

be followed by the First Minister in appointing the Commissioner and the Welsh language knowledge and proficiency that a person appointed as Commissioner must have.

Regulation 2 imposes a duty upon the Welsh Ministers to convene a selection panel when requested by the First Minister to do so. A selection panel established for appointing the Commissioner will include a member of staff of the Welsh Assembly Government (known as "the Welsh Government"); an independent assessor; a person with experience of the promotion of the use of Welsh and/or another language; and an Assembly Member nominated by a committee of the National Assembly for Wales. In the event that a committee declines or fails to make a nomination, regulation 2 permits the Welsh Ministers to convene a section panel which does not include an Assembly Member.

Regulation 3 prevents a person who holds or has held the post of Commissioner or Deputy Welsh Language Commissioner from sitting on a selection panel.

Regulation 4 imposes a duty upon the First Minister, in appointing the Commissioner, to follow the principles of ministerial responsibility; merit; independent scrutiny; equal opportunities; probity; openness and transparency; and proportionality taking into account the description of those principles set out in the Commissioner for Public Appointments' Code of Practice for Ministerial Appointments to Public Bodies of August 2009. A copy of the Code of Practice of August 2009 can be found on the Commissioner for Public Appointments' website: www.publicappointmentscommissioner.org/

Regulation 5 makes provision in relation to the knowledge of, and proficiency in, the Welsh language that a person appointed as Commissioner must have.

A Regulatory Impact Assessment for these regulations has been prepared and a copy can be obtained from the Welsh Language Unit, Department for Education and Skills, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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**Rheoliadau Comisiynydd y
Gymraeg (Penodi) 2011**

**The Welsh Language
Commissioner (Appointment)
Regulations 2011**

Gwnaed 28 Mehefin 2011

Made 28 June 2011

Yn dod i rym 29 Mehefin 2011

Coming into force 29 June 2011

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd gan adran 2(3) o Fesur y Gymraeg (Cymru) 2011 a pharagraff 7 o Atodlen 1 iddo(1), yn gwneud y Rheoliadau a ganlyn:

The Welsh Ministers, in exercise of the powers conferred by section 2(3) of, and paragraph 7 of Schedule 1 to, the Welsh Language (Wales) Measure 2011(1), make the following Regulations:

Enwi, cychwyn a chymhwyso

Title, commencement and application

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Comisiynydd y Gymraeg (Penodi) 2011.

1.—(1) The title of these Regulations is the Welsh Language Commissioner (Appointment) Regulations 2011.

(2) Mae'r Rheoliadau hyn yn dod i rym ar 29 Mehefin 2011 ac maent yn gymwys o ran Cymru.

(2) These Regulations come into force on the 29 June 2011 and apply in relation to Wales.

Sefydlu panel dethol

Establishment of a selection panel

2.—(1) Pan ofynnir iddynt wneud hynny gan Brif Weinidog Cymru rhaid i Weinidogion Cymru gynnwll panel dethol at ddibenion paragraff 7(2) o Atodlen 1 i Fesur y Gymraeg (Cymru) 2011.

2.—(1) Upon being requested to do so by the First Minister the Welsh Ministers must convene a selection panel for the purposes of paragraph 7(2) of Schedule 1 to the Welsh Language (Wales) Measure 2011.

(2) Yn ddarostyngedig i baragraff (3), rhaid i banel dethol gael ei ffurfio gan y canlynol—

(2) Subject to paragraph (3), a selection panel must comprise of—

- (a) aelod o staff Llywodraeth Cynulliad Cymru;
- (b) person achrededig gan Swyddfa'r Comisiynydd Penodiadau Cyhoeddus i weithredu fel asesydd penodi annibynnol;
- (c) person y mae'n ymddangos i Weinidogion Cymru ei fod yn meddu ar brofiad perthnasol; ac
- (ch) Aelod o Gynulliad Cenedlaethol Cymru a enwebwyd gan bwyllgor perthnasol.

- (a) a member of staff of the Welsh Assembly Government;
- (b) a person accredited by the Office of the Commissioner for Public Appointments to act as an independent appointments assessor;
- (c) a person who appears to the Welsh Ministers to possess relevant experience; and
- (d) a member of the National Assembly for Wales nominated by a relevant committee.

(3) Pan fo pwyllgor perthnasol naill ai:

(3) Where a relevant committee either:

- (a) yn gwrthod enwebu; neu
- (b) yn methu ag enwebu o fewn amser rhesymol,

nid yw paragraff (2)(ch) o'r rheoliad hwn yn gymwys.

(4) Yn y rheoliad hwn—

ystyr "profiad perthnasol" ("*relevant experience*") yw profiad o hybu defnydd o'r Gymraeg a/neu iaith arall; ac

ystyr "pwyllgor perthnasol" ("*relevant committee*") yw un o bwyllgorau Cynulliad Cenedlaethol Cymru yr estynnir gwahoddiad iddo gan Weinidogion Cymru i enwebu.

Personau wedi eu anghymhwyso

3. Mae person sy'n dal neu wedi dal swydd Comisiynydd neu Ddirprwy Gomisiynydd wedi ei anghymhwyso rhag eistedd ar banel dethol.

Yr egwyddorion i'w dilyn

4. Wrth benodi'r Comisiynydd rhaid i Brif Weinidog Cymru ddilyn egwyddorion cyfrifoldeb gweinidogion, teilyngdod, craffu annibynnol, cyfle cyfartal, uniondeb, didwylledd a thryloywder a chymesuredd gan gymryd i ystyriaeth y disgrifiad o'r egwyddorion hynny yng Nghod Ymarfer y Comisiynydd Penodiadau Cyhoeddus ar gyfer Penodiadau gan Weinidogion i Gyrrff Cyhoeddus dyddiedig Awst 2009.

Gwybodaeth o'r Gymraeg a hyfedredd ynddi

5.—(1) Wrth gyf-weld ag ymgeiswyr ar gyfer penodi Comisiynydd, rhaid i banel dethol asesu gwybodaeth pob ymgeisydd o'r Gymraeg a'i hyfedredd ynddi.

(2) Rhaid i argymhellion y mae panel dethol yn eu rhoi i Brif Weinidog Cymru mewn perthynas â'r penodiad gynnwys asesiad y panel o wybodaeth pob ymgeisydd o'r Gymraeg a'i hyfedredd ynddi.

(3) Cyn penodi person yn Gomisiynydd rhaid bod Prif Weinidog Cymru wedi ei fodloni bod gan y person wybodaeth ddigonol o'r Gymraeg a hyfedredd digonol ynddi i arfer swyddogaethau'r Comisiynydd.

- (a) declines to make a nomination; or
- (b) fails to make a nomination within a reasonable time,

paragraph (2)(d) of this regulation does not apply.

(4) In this regulation—

"relevant committee" ("*pwyllgor perthnasol*") means a committee of the National Assembly for Wales invited by the Welsh Ministers to make a nomination;

"relevant experience" ("*profiad perthnasol*") means experience of the promotion of the use of Welsh and/or another language.

Disqualified persons

3. A person who holds or has held the post of the Commissioner or the Deputy Commissioner is disqualified from sitting on a selection panel.

Principles to be followed

4. In appointing the Commissioner the First Minister must follow the principles of ministerial responsibility, merit, independent scrutiny, equal opportunities, probity, openness and transparency and proportionality taking into account the description of those principles in the Commissioner for Public Appointments' Code of Practice for Ministerial Appointments to Public Bodies of August 2009.

Welsh language knowledge and proficiency

5.—(1) In interviewing candidates for appointment as Commissioner, a selection panel must assess each candidate's knowledge of, and proficiency in, the Welsh language.

(2) A selection panel's recommendations to the First Minister in relation to the appointment must include the panel's assessment of the knowledge of, and proficiency in, the Welsh language of each candidate.

(3) Before appointing a person as Commissioner the First Minister must be satisfied that the person has sufficient knowledge of, and proficiency in, the Welsh language to exercise the functions of the Commissioner.

Leighton Andrews

Y Gweinidog Addysg a Sgiliau, un o Weinidogion
Cymru

Minister for Education and Skills, one of the Welsh
Ministers

28 Mehefin 2011

28 June 2011

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